

Our Founding Fathers understood that liberty and security complement each other. Unfortunately, this core premise has been muddled as we have debated FISA legislation. This legislation protects the people and the principles that we hold so dear in this country and it modernizes our Nation's intelligence laws to meet the technological demands of the 21st century.

I am especially pleased that the bill before us today provides such strong legal clarity. Without clear boundaries, intelligence officers will err on the side of caution. Strong legal footing not only protects our civil liberties; it also ensures that prosecutions will not be jeopardized.

Mr. Speaker, the American people also deserve disclosure of the data that has been surrendered to the government by the telecommunications industry. It is critical for Congress to be fully informed before making such an important decision as granting retroactive immunity. Brave men and women have sacrificed to protect the civil liberties and values that we hold most dear. We cannot and should not lightly brush their contributions aside. Instead, we must honor their memories by taking responsible action to protect two of the things that our constituents hold most dear, our freedom and our national security. Neither of these basic American values can exist without the other.

I will continue to support bills like the RESTORE Act that recognize this essential truth. I urge all my colleagues to join me in supporting this legislation.

Mr. HASTINGS of Washington. Mr. Speaker, I am pleased to yield 6 minutes to the gentleman from Michigan (Mr. HOEKSTRA), the ranking member of the Intelligence Committee.

Mr. HOEKSTRA. I thank my colleague for yielding.

Mr. Speaker, we have talked about the importance, as we have just heard, we have just heard about clear legal authorities; we have talked about the protection of U.S. persons, the need to study this issue in a very important, judicious manner. It's not what happened over the last 4 weeks. Over the last 4 weeks, our colleagues on the other side of the aisle were trying to figure out exactly how to bring this vote forward to get the votes necessary to pass it.

As we went to Rules yesterday, it was about a half hour before we saw the manager's amendment. As I read through the manager's amendment, this is interesting, and as with much else on FISA, I wonder what this really means and how it really works. Does it really provide us with the clear legal authorities? Are the statements that it makes clear? Will it help our intelligence communities?

And while there's a lot of problems in the rest of the bill, I just want to focus on one part of the manager's amendment that is self-enacting today, and that is why I rise in opposition to this

unnecessary second rule. It places unnecessary, burdensome restrictions on the intelligence community through a self-executing amendment.

More importantly, however, I would like to highlight my concern with a provision of the manager's amendment in this rule that appears to give extremely broad and vague authorities to the executive branch to conduct surveillance on undocumented aliens within the United States. Section 18 of the manager's amendment is bluntly titled: "No Rights Under the RESTORE Act for Undocumented Aliens." No rights under the RESTORE Act for undocumented aliens. Then it goes on to say: "This act and the amendments made by this act," and by "this act," it's talking about FISA, not this bill, at least that is how I would interpret it, "shall not be construed to prohibit surveillance of, or grant any rights to an alien not permitted to be in or remain in the United States."

This poorly conceived and ill-advised provision appears to provide an extremely broad and completely blank check to the executive branch to conduct wholly unregulated surveillance on an undocumented alien in the United States. The scope of this is unprecedented. We have never before extended such blanket authority to the intelligence community to collect information on any person within the country, legal or illegal.

The language is also as vague as it is broad. My counsel says he doesn't know what the effect of an alien not permitted to be in or remain in the United States means, since it doesn't define those terms by reference to other laws. The overall effect of this provision could be breathtaking in its scope.

One of the issues that was supposed to be definitively clarified in this bill is whether or not the enhanced authorities of the Protect America Act or this bill would allow physical searches to be conducted of the homes and businesses of innocent Americans. Since that clarification is supposed to be made in the RESTORE Act, it seems that this provision must be read to permit physical searches of the homes and offices of undocumented aliens.

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I've got a few questions for the other side that I hope they would take the time to answer when time is yielded back to them. I would like to obtain clarification with respect to a number of ambiguities in the manager's amendment. Would you clarify under which specific laws an alien could be "permitted to be in or remain in the United States" under this manager's amendment? Since it does not refer to specific laws, would the President denying someone permission to remain in the United States under this executive authority trigger this provision?

The amendment also says that it does not prohibit surveillance of undocumented aliens. Would you further

clarify what types of surveillance of undocumented aliens are authorized under this provision?

The amendment does not define the term "surveillance." Would it allow surveillance against possible illegal aliens for law enforcement purposes? Would it allow foreign intelligence surveillance to be conducted against transnational smuggling rings? Would it allow surveillance to determine whether someone is an alien not permitted to be in or remain in the United States? Would the amendment exempt undocumented aliens from the physical search requirements of FISA?

One final clarification. Does the term "this Act," as I said, I believe it refers to all of FISA, or is it just some section? Could you clarify how that is different than "the amendments made by this Act"?

This is unprecedented in its breadth and its scope, potentially unleashing the intelligence community on people in the United States. The practice in the community today is that when someone is in the United States, they are provided the protections of U.S. law. This takes it and shreds it for illegal aliens, or people who may be suspected of being illegal aliens.

And talk about protecting rights, this bill shreds the rights of people who are in this country. It is a significant problem, and this is what happens when you go through a process on this type of technical legislation and do not go through a process that allows the minority or hearings to take place.

Mr. HASTINGS of Florida. Mr. Speaker, before yielding to my good friend from California, the gentleman from Michigan, the ranking member of the Intelligence Committee raised a plethora of questions. I would say to him that he can expect his answers in the general debate, and I am sure that the gentleman from Michigan (Mr. CONYERS) and the gentleman from Texas (Mr. REYES) will enlighten him as to the scope of questions that he put. I would like to, for I feel that he knows the answer to every one of them, but I won't take the time.

I am very pleased to yield 3 minutes to the distinguished gentlewoman from California, the Chair of the Intelligence, Information Sharing and Terrorism Risk Assessment Subcommittee of the Committee on Homeland Security, and if you can say all of that, then you must be somebody, JANE HARMAN.

Ms. HARMAN. I thank the gentleman for yielding. I commend his service on the Rules Committee and his long service, much of which I shared, on the House Intelligence Committee.

Mr. Speaker, I rise in strong support of this rule and the underlying bill. Many in this House, including me, have worked over years to get surveillance right. This bill does a good job, a far better job than the bill reported last month by the Senate Intelligence Committee.

Protecting America from the real threat of additional attacks requires